

GENERAL SERVICES ADMINISTRATION PUBLIC BUILDINGS SERVICE	SUPPLEMENTAL AGREEMENT NO. 2	DATE November 13, 2012
SUPPLEMENTAL LEASE AGREEMENT		TO LEASE No. GS-11B-12549 (previously SEC-DC-0006)
ADDRESS OF PREMISES 400 7th Street, S.W. Washington D.C., 20024-2705		
THIS AGREEMENT , made and entered into this date by and between DAVID NASSIF ASSOCIATES , a District of Columbia limited partnership, whose address is: 195 Worcester Street, Suite 301 Wellesley Hills, MA 02481 hereinafter called the Lessor, and the UNITED STATES OF AMERICA , hereinafter called the Government: WHEREAS, the parties hereto desire to amend the above Lease. NOW THEREFORE, these parties for the considerations hereinafter mentioned covenant and agree that the said Lease is amended, effective upon the date of this Supplemental Lease Agreement (SLA) No. 2: This SLA No. 2 is hereby issued to delete the entire content of the Lease's Standard Form 30, Modification 0001, dated June 13, 2012, including its Attachments A through E (the "Modification"), and replace it with the attached Standard Form 2, U.S. Government Lease for Real Property and its Exhibits (the "SF-2"). By way of background, the Lessor and the U.S. Securities and Exchange Commission ("SEC") entered into that certain Letter Contract, dated as of July 28, 2010 (the "Letter Contract"), for the leasing of space at the building known as Constitution Center, 400 7th Street, S.W., Washington, D.C. (the "Building"). Pursuant to the terms of the Letter Contract, SEC was to lease approximately 900,000 rentable square feet ("RSF") of office and special use space out of the roughly 1,397,332 RSF available in the Building. Occupancy of 60,000 +/- RSF of swing space, to be rent free, was to be delivered in October 2010. Occupancy of the first 350,000 +/- RSF was to be delivered not later than September 2011, and the final 550,000 +/- RSF was to be delivered not later than September 2012. However, in early October 2010, SEC informed the Lessor that because funding was not received for the new hires that the space was intended to house, SEC would be forced to reduce the amount of its leased space in the Building. On October 19, 2010, SEC agreed to release an amount of space under the Letter Contract necessary for the Lessor to compete for a new lease of approximately 315,000 RSF with the Federal Housing Finance Agency ("FHFA"). On December 8, 2010, SEC agreed to release an amount of space under the Letter Contract necessary for the Lessor to negotiate for a new lease with the Office of the Comptroller of the Currency ("OCC"). SEC expressed its position that after the aforementioned releases, it retained approximately 300,000 RSF under the Letter Contract. The Lessor disagreed and contended that approximately 358,000 RSF remained subject to the Letter Contract. In any event, on February 10, 2011, SEC informed the Lessor that SEC would not have a need for any of the remaining space in the Building. On June 13, 2012, SEC unilaterally issued the Modification, which included as Attachment E a lease and attachments representing a definitization of the Letter Contract (the "Definitized Lease"). SEC declared the property under the Definitized Lease as excess property to begin the disposal process, and the U.S. General Services Administration ("GSA") applied for the transfer of such property to GSA in accordance with Federal law. As set forth in SLA No. 1 dated September 13, 2012 ("SLA No. 1"), the Definitized Lease was transferred from SEC to GSA by means of Transfer Letter effective June 29, 2012. The Lessor and GSA have subsequently agreed to delete the entirety of the Modification, including the Definitized Lease, and replace it with the attached mutually-agreeable SF-2. Therefore, effective as of the date of this SLA No. 2, SLA No. 1 and SLA No. 2, and all of its attachments and Exhibits, as well as any future-agreed amendments hereto, shall constitute the entirety of the Lease. IN WITNESS WHEREOF , the parties subscribed their names as of the above date.		
LESSOR: David Nassif Associates (b) (6) BY _____ Timothy D. Jaroch, Managing General Partner IN PRESENCE OF: (b) (6) BY _____ (Signature) 800 17th St., Suite 1100, NW Washington, D.C. 20006 (Address)		
UNITED STATES OF AMERICA: U.S. General Services Administration (b) (6) BY _____ (Signature) _____ Contracting Officer (Official Title)		

Attachment to SLA No. 2

STANDARD FORM 2 FEBRUARY 1965 EDITION U.S. GENERAL SERVICES ADMINISTRATION	U.S. GOVERNMENT LEASE FOR REAL PROPERTY	
DATE OF LEASE November 13, 2012	LEASE NO. GS-11B-12549	
<p>THIS LEASE, made and entered into this date between DAVID NASSIF ASSOCIATES, a District of Columbia limited partnership, whose address is:</p> <p style="padding-left: 40px;"> 195 Worcester Street Suite 301 Wellesley Hills, MA 02481 </p> <p>and whose interest in the property hereinafter described is that of Owner, hereinafter called the Lessor, and the UNITED STATES OF AMERICA, hereinafter called the Government:</p> <p>WITNESSETH: The parties hereto, for the considerations hereinafter mentioned, covenant and agree as follows:</p> <p>1. The Lessor hereby leases to the Government the following described Leased Premises:</p> <p style="padding-left: 20px;">a) An aggregate of 372,299 RSF (yielding approximately 302,373 ANSI/BOMA office area square feet ["ABOA"]), consisting of Above-Grade Space and Conditioned Below-Grade Space, as more particularly described below and in Exhibit A attached hereto, in the building known as Constitution Center, with its address at 400 7th Street, SW, Washington, D.C. 20024 (the "Building"), as well as fifteen (15) reserved parking spaces in the Building's parking garage as more particularly described in Paragraph 5(d) below (the "Leased Premises").</p> <p style="padding-left: 20px;">b) The Leased Premises consists of Above-Grade Space and Conditioned Below-Grade Space, as follows:</p> <p style="padding-left: 40px;">i) "Above-Grade Space": An aggregate of 361,701 RSF (yielding approximately 293,735 ABOA), as follows:</p> <p style="padding-left: 60px;">(1) On Floors 2 - 10 in the Southwest quadrant of the Building, 349,553 RSF (yielding approximately 283,782 ABOA), which constitutes that area between (x) the demising wall for the space in the Southeast quadrant to be occupied by FHFA, which demising wall location is at the midpoint between column lines 8 and 9 on the Building's E Street side; and (y) the demising wall for the space in the Northwest quadrant to be occupied by OCC, which demising wall location is at column line H on the Building's 7th Street side, all as shown on the Leased Premises Layout Plans attached hereto as Exhibit A-1;</p> <p style="padding-left: 60px;">(2) On the Plaza level of the Building, 8,486 RSF (yielding approximately 6,953 ABOA), shown as "Area 1" on the Plaza Level Layout Plan attached hereto as Exhibit A-2; and</p> <p style="padding-left: 60px;">(3) On the Plaza level of the Building, 3,662 RSF (yielding approximately 3,000 ABOA), shown as "Area 2" on the Plaza Level Layout Plan attached hereto as Exhibit A-2.</p> <p style="padding-left: 40px;">ii) "Conditioned Below-Grade Space": On the P-1 level in the Southwest quadrant of the Building, 10,598 RSF (yielding approximately 8,638 ABOA), shown as "Conditioned Below-Grade Space" on the P-1 Level Layout Plan attached hereto as Exhibit A-3.</p> <p>The enclosed Southwest quadrant elevator lobby shall be for the Government's exclusive use, subject to Paragraph 20 of this SF-2.</p> <p style="padding-left: 20px;">c) The Leased Premises shall consist of two (2) blocks of space to be occupied by no more than five (5) Federal tenant agencies (each, a "Tenant Agency," and collectively, the "Tenant Agencies"), as provided under Clause 7 (Substitution of Tenant Agency) of the General Clauses, as follows:</p> <p style="padding-left: 40px;">i) "FTC Space": an aggregate of 251,898 RSF (yielding approximately 204,597 ABOA), consisting of: (1) 232,814 RSF</p>		

Initials:

(b) (6)

Lessor

Government

(yielding approximately 189,006 ABOA) on Floors 5 - 10; (2) 8,486 RSF (yielding approximately 6,953 ABOA) on the Plaza level; and (3) all of the Conditioned Below-Grade Space leased by the Government pursuant to Paragraph 1(a)(ii) above, to be occupied by the U.S. Federal Trade Commission (the "FTC"), as more particularly shown as "FTC Space" on the Leased Premises Layout Plans attached hereto as Exhibit A-1.

- ii) **"NEA/NEH Space"**: an aggregate of 120,401 RSF (yielding approximately 97,776 ABOA), consisting of: (1) 116,739 RSF (yielding approximately 94,776 ABOA) on Floors 2, 3, and 4; and (2) 3,662 RSF (yielding approximately 3,000 ABOA) on the Plaza level, to be occupied in approximately equal portions by the National Endowment for the Arts ("NEA") and the National Endowment for the Humanities ("NEH"), with portions of Floor 3 to be shared use.

The Leased Premises's per level and per floor RSFs and ABOAs are also set forth in the table attached hereto as Exhibit A.

- d) In consideration for the Lessor's delivery of "Area 2" of the NEA/NEH Space on the Plaza level in warm-lit shell condition, in the event the tenant improvements for "Area 2" of the NEA/NEH Space on the Plaza level require demolition of existing improvements; reconfiguration of the ceiling or the HVAC and other systems above the ceiling; or installation of new demising partitions, the Government shall be responsible for the cost of such improvements.
- e) The Leased Premises are to be used for such general office purposes and such Government support services as shall be determined by the Government and as shall comply with applicable laws and regulations.
- f) The Government and its agents and employees shall abide by and observe the rules and regulations attached hereto as Exhibit B and such other reasonable rules and regulations as the Lessor may promulgate from time to time for the operation and maintenance of the Building (collectively, the "Rules"). The Government shall also have a non-exclusive right to use the common areas of the Building, including the Auditorium, Cafeteria, Conference Center, and Fitness Center (individually, a "Building Amenity," collectively, the "Building Amenities") as described in Exhibit F attached hereto and subject to the terms and conditions of this Lease, including the Rules. The Rules may be amended from time to time provided that: (i) a copy has been furnished to the Government; and (ii) any new Rules (1) do not materially adversely affect the Government's use and enjoyment of, or access to, the Leased Premises; and (2) are not in conflict with any of the express provisions of this Lease. The Lessor shall not discriminate against the Government in the enforcement of any Rule.
- g) The Federal government and Federal government contractors shall be the only tenants in the Building other than retail space. For purposes of this Lease, if a Building Amenity is operated under a lease by a third party operator, it shall be deemed "retail space."
2. TO HAVE AND TO HOLD the said Leased Premises with their appurtenances for the firm term of ten (10) years beginning on the Rent Commencement Date for the FTC Space (the "Lease Commencement Date"), subject to any termination rights as may be hereinafter set forth (the "Term" or "Lease Term"). The Lease Commencement Date shall be no later than March 1, 2014. If the Rent Commencement Date (as defined below) for the NEA/NEH Space is prior to March 1, 2014, a composite Rent Commencement Date and Lease Commencement Date will be established based on all Rent Commencement Dates in accordance with the percentage of space occupied earlier by NEA/NEH.
3. The Government shall pay the Lessor the estimated annual rent of \$16,511,546.80 for Years One-Five of the Lease Term, based upon: (a) \$44.80 per RSF x 361,701 RSF for the Above-Grade Space; and (b) \$29.00 per RSF x 10,598 RSF for the Conditioned Below-Grade Space, payable at the estimated rate of \$1,375,962.23 per month in arrears; and the Government shall pay the Lessor the estimated annual rent of \$17,339,083 for Years Six-Ten of the Lease Term, based upon: (a) \$47.00 per RSF x 361,701 RSF for the Above-Grade Space; and (b) \$32.00 per RSF x 10,598 RSF for the Conditioned Below-Grade Space, payable at the estimated rate of \$1,444,923.58 per month in arrears. The rental rate includes the \$46.00 per ABOA tenant improvement allowance more particularly described in Paragraph 5.b below (the "TIA").
- a) The Lessor will deliver the Leased Premises in two phases (each, a "Phase," and collectively, the "Phases"), one for the FTC Space and the other for the NEA/NEH Space, as more particularly described in the project schedules as shall be agreed to by the parties no later than November 15, 2012 (thereafter, the "Project Schedule"). Notwithstanding any Lease provision to the contrary, the Lessor shall not be required to obtain a Certificate of Occupancy for a Phase prior to its delivery in order for the Phase to qualify as "substantially complete" or to achieve "substantial completion" unless a Certificate of Occupancy (or other documentation under which the District of Columbia permits occupancy and use of space) can be obtained prior to the Government's installation of its furniture, fixtures, and equipment. The NEA/NEH Spaces's "Rent Commencement Date" shall be the earliest to occur of: (i) March 1, 2014; (ii) ninety (90) days after the NEA/NEH Space is deemed substantially complete and ready for occupancy; or (iii) the date that NEA/NEH fully occupies the NEA/NEH Space. The parties agree to make good faith efforts to accelerate the NEA/NEH Space's "Rent Commencement Date" by commencing construction of the improvements for the NEA/NEH Space by no later than

(b) (6)

Initials:

Lessor

Government

January 1, 2013. The FTC Space's "Rent Commencement Date" shall be March 1, 2014, and any Government occupancy of the FTC Space prior to such date shall be free of rent.

- b) All rental payments shall be paid monthly in arrears, as adjusted by annual operating cost escalations, through the Lease Term.

Rent checks shall be payable to:

David Nassif Associates
195 Worcester Street
Suite 301
Wellesley Hills, MA 02481

or made in accordance with the provision on electronic payment of funds of Clause 24 (Electronic Funds Transfer Payment) of the General Clauses attached hereto as Exhibit H.

Rent for a period less than a month shall be prorated.

- c) The Letter Contract provided that because the Government is not using a broker for this transaction, the Lessor would make available a credit reflective of a tenant-side broker commission. However, the Letter Contract did not specify a commission amount or a methodology to calculate the commission. The Lessor and the Government have agreed that: (i) the credit due to the Government (the "Credit") is \$5,077,594.47, which is equal to three percent (3%) of the total contract value; and (ii) the Credit will be taken as an addition to the TIA.
4. Neither the Government nor the Lessor have early termination rights except as otherwise provided under the General Clauses attached hereto as Exhibit H.
5. The Lessor shall furnish to the Government as part of the rental consideration, the following:
- a) Except as otherwise set forth in this SF-2, all services, improvements, alterations, repairs, and utilities and the Warm Lit Shell (as defined below) as provided for in this Lease.
- b) Tenant Improvement Allowance:
- i) Notwithstanding anything to the contrary contained in the Solicitation for Offers attached hereto as Exhibit G (the "SFO"), the annual rental rates set forth in Paragraph 3 above for the Above-Grade Space and the Conditioned Below-Grade Space include a TIA of \$13,909,158, based upon: (a) \$46.00 per ABOA x 293,735 ABOA for the Above-Grade Space; and (b) \$46.00 per ABOA x 8,638 ABOA for the Conditioned Below-Grade Space, amortized at an annual interest rate of (b) (5) over the Term, equating to \$4.60 per ABOA per year. The TIA shall be applied toward the cost of designing, engineering, and constructing the improvements needed to provide occupancy and use of the Leased Premises (the "Government Project").
- ii) The Government shall be responsible for the cost of the Government Project, and the TIA will begin to be applied to the cost of the Government Project once the cost of the Warm Lit Shell, as defined below, has been expended. The Lessor shall be responsible for the cost of the Warm Lit Shell.
- iii) Except as otherwise provided in this Lease, the Government shall have the full latitude to direct disbursement of the TIA in accordance with the SFO. The parties shall execute a Supplemental Lease Agreement upon the Government's acceptance of the entire Leased Premises as substantially complete that memorializes the amount of the TIA utilized. The actual cost of the Government Project will be determined by the competition and cost proposals as set forth in SFO Paragraph 5.2 (Tenant Improvements Pricing Requirements). The Government reserves the right to return to the Lessor any unused portion of the TIA in exchange for a decrease in rent.
- c) Broker's Commission: The Lessor represents that it has not dealt with any broker other than Robert C. Hines (of FD Stonewater). The Lessor shall be solely responsible for the payment of any commission due to FD Stonewater and/or Robert C. Hines in connection with this Lease.
- d) Parking: Fifteen (15) reserved parking spaces in the Building's parking garage are included in the rent and will be allocated among the Tenant Agencies by the Government, which shall give written notice to the Lessor of such allocation prior to December 15, 2012. In addition to these fifteen (15) spaces, each Tenant Agency shall have the option, exercisable upon the Tenant Agency's delivery of written notice to the Lessor at least thirty (30) calendar days prior to the Tenant Agency's Rent Commencement Date, to enter into a license agreement or other Lessor-acceptable arrangement

(b) (6)
Initials: _____
Lessor _____ Government _____

under which the Tenant Agency shall contract for the use by its employees and contractors, on a non-exclusive basis, of one (1) unreserved parking space for every 1,350 RSF included in the Tenant Agency's portion of the Leased Premises (the "Additional Government Parking Spaces"). Permits for the Additional Government Parking Spaces shall be available at the rate of \$225.00 per month per space in 2013, subject to annual escalation thereafter in accordance with market parking rates (not to exceed three percent [3%] annually). If any Tenant Agency fails to enter into a Lessor-acceptable arrangement under which the Tenant Agency contracts for the use of parking spaces for its employees and contractors by the deadline set forth above, any such Tenant Agency's employees and contractors shall have the right, during the period ending sixty (60) days after such deadline, to lease one (1) parking space per person on a first-come, first-served basis. Upon the expiration of such sixty (60) day period, the Lessor may lease any non-leased parking spaces to other Federal agencies or badged Federal employees or contractors, whether or not they are Building tenants or occupants.

All parking in the garage shall be subject to security controls and to such operational procedures and rules, including the use of parking permits, as the Lessor or any garage operator retained by the Lessor shall from time to time implement. Parking shall be limited to badged Federal employees or contractors. Guest parking will be permitted on a daily basis provided that spaces are available and the Lessor's security protocol and operating procedures are followed.

- e) LEED and Energy Star: The Lessor has achieved a Gold Core & Shell LEED rating for the Building, which is the only LEED certification that the Lessor is obligated to achieve notwithstanding anything to the contrary contained in the SFO or elsewhere in the Lease. In accordance with SFO Paragraph 8.3 (Energy Cost Savings), the Lessor shall achieve the Energy Star label within twelve (12) months of the Government's occupancy of the entire Leased Premises, which label shall be maintained during the Lease Term.
- f) Generator: The Government shall have the right to use a location on the roof of the Southwest quadrant selected by the Lessor in its sole discretion, at no rental charge, for the installation of an emergency backup generator (with associated fuel tank unless fuel is supplied and metered from the Building's fuel tanks in the parking garage), with not more than 500 KW capacity (the "Generator"). The specific emergency backup generator installation and specifications shall be subject to the Lessor's prior written consent, which consent may not be unreasonably withheld, conditioned, or delayed. All costs associated with the installation, maintenance, repair, and removal of the Generator and related equipment and systems, as well as the cost of fuel used from the Building's fuel supply, shall be the Government's sole responsibility.
- g) Telecommunication Space: Use of up to one hundred (100) square feet, as designated by the Lessor, within the rooftop area on the north side of the Building shown conceptually as the communications area on the plan attached hereto as Exhibit C, for the installation of communications equipment and related antenna (the "Rooftop Communications Facility"). The Government's specifications for the Rooftop Communications Facility shall be subject to the Lessor's prior written consent, which consent may not be unreasonably withheld, conditioned, or delayed, provided such Rooftop Communications Facility is comparable to rooftop installations typically found in comparable Washington, D.C. office buildings. There will be no rental charge for the use of the aforesaid rooftop area, but all costs associated with the installation, maintenance, and repair of the Rooftop Communications Facility shall be the Government's sole responsibility. Notwithstanding the foregoing and subject to the limitations set forth in Paragraph 18 of this SF-2, if the Government desires to obtain only cable/satellite television service in the Leased Premises by means of cable/satellite television antennae(s) or dish(es), the Government shall have the non-exclusive right to use a portion of the Rooftop Communications Facility, no greater than sixteen (16) square feet in area in a reasonable location determined solely by the Lessor, to install up to five (5) (one [1], but only one [1], for each Tenant Agency) cable/satellite television antennae(s) or dish(es) standing at, or being located on a raised platform constructed by the Government that is, no less than nine feet (9'-0") in height above the Building's roof, including related cabling and conduit, all at the Government's sole cost and expense and all subject to the Government having obtained the Lessor's prior written consent thereto, which consent may not be unreasonably withheld, conditioned, or delayed. Access to the Building roof to install, maintain, or repair the Rooftop Communications Facility shall be coordinated in advance with the Building's property manager.
- h) Risers: Subject to the limitations set forth in Paragraph 18 of this SF-2, the Government and its telecommunications vendors may use the Government's pro rata share, based on its Percentage of Occupancy (as defined in the SFO), of the Building's risers.
- i) The base rate for annual operating cost adjustments is (b) (5) based upon the Government-verified GSA Form 1217 attached hereto as Exhibit L, which shall be adjusted annually in accordance with SFO Paragraph 4.3 (Operating Costs).
- j) The Leased Premises shall be measured in accordance with SFO Paragraph 4.1 (Measurement of Space). Pursuant to SFO Paragraph 4.1, the "Common Area Factor" for the Southwest quadrant of the Building is calculated to be 1.2313, as calculated: 372,299 RSF/302,373 ABOA. The Government and the Lessor shall each have the option upon substantial completion of the entire Leased Premises to confirm and remeasure the Leased Premises's square footage in accordance with SFO Paragraph 4.1 and ANSI/BOMA Standards. If such remeasurement results in the need for an adjustment under (b) (6)

Initials: _____
Lessor _____ Government _____

ANSI/BOMA standards, the parties shall execute a Supplemental Lease Agreement reflecting the adjustment to the Leased Premises's square footage and all of the Lease's economic terms based on the adjusted square footage.

6. No provision of this Lease shall have any effect on the Lessor's rights with regard to any claim against SEC that the Lessor may have or desire to assert in connection with the Letter Contract or the Modification, including the Definitized Lease, or both, or any default thereunder, including but not limited to: (i) the reduction in committed square footage or any other difference in terms between the Letter Contract, the Modification, including the Definitized Lease, and this Lease; (ii) the steps taken by the Lessor in an effort to mitigate damages resulting from any such difference in terms, including the Lessor's entry into leases with FHFA and OCC; or (iii) the design, engineering, construction, equipping, and furnishing of approximately 60,000 RSF of space for SEC in the Northwest quadrant of the Building. Notwithstanding the above, matters relating to the Letter Contract and the Modification arising from events prior to the transfer of the Definitized Lease to GSA via Transfer Letter effective June 29, 2012, are between the Lessor and SEC, and not GSA as assignee under this Lease, including any dispute relating to SEC's unilateral definitization of the Letter Contract through the Modification.

7. The following are attached and made a part hereof:

Exhibit A, Floor Area Measurements - 1 page;
Exhibit A-1, Leased Premises Layout Plans Showing Approximate Boundaries of Leased Premises on Floors 2-10 - 4 pages;
Exhibit A-2, Plaza Level Layout Plan - 1 page;
Exhibit A-3, P-1 Level Layout Plan - 1 page;
Exhibit B, Rules - 2 pages;
Exhibit C, Rooftop Plan Showing Communications Facility Area - 1 page;
Exhibit D, Warm Lit Shell Work Obligations - 3 pages;
Exhibit E, Plan Showing Required Cable Tray Pathways - 1 page;
Exhibit F, Building Amenities Description, Terms and Conditions - 3 pages;
Exhibit G, SFO No. SEC-DC-0006, dated 6/17/2010, pages 1-54;
Exhibit H, General Clauses, GSA Form 3517B - 33 pages;
Exhibit I, Representations and Certifications, GSA Form 3518 - 7 pages;
Exhibit J, Fire Life Safety Evaluation - 13 pages;
Exhibit K, Prelease Security Report - 19 pages; and
Exhibit L, GSA Form 1217 - 1 page.

8. If any provision of this SF-2, including the continuation pages of this SF-2 (the "Continuation Pages") (Pages 7-16), which Continuation Pages containing Paragraphs 9-27 are attached and made a part of this SF-2, is inconsistent with any provision in any other document that comprises this Lease, the provision of this SF-2 shall govern.

IN WITNESS WHEREOF, the parties hereto have hereunto subscribed their names as of the date first above written.

LESSOR: David Nassif Associates

(b) (6)

BY _____
Timothy D. Jaroch, Managing General Partner

IN PRESENCE OF:

BY _____ (Signature) _____ (Address)

UNITED STATES OF AMERICA: U.S. General Services Administration

(b) (6)

BY _____ (Signature) _____ Contracting Officer
(Official Title)

Initials: _____
Lessor Government

9. WARM LIT SHELL:

The Lessor shall deliver, at its expense, a "warm lit shell" that is, in all material respects, in accordance with the Lessor's obligations set forth in Exhibit D attached to this SF-2, entitled "Warm Lit Shell Work Obligations" (the "Warm Lit Shell"), and the specifications for the Warm Lit Shell included in Exhibit D shall supersede any Lease provision that is inconsistent with Exhibit D. The Warm Lit Shell does not include a separate entrance for the Government. The Lessor shall cause the General Contractor, as defined below, to break out the cost of the Warm Lit Shell based upon the applicable subcontractor pricing included in the General Contractor's guaranteed maximum price (the "GMP"). The Lessor shall deliver a notice to the Government and include such subcontractor break-out information, and the cost of the Warm Lit Shell shall be as set forth in such notice, in the absence of manifest error. Prior to the commencement of construction, the parties shall execute a Supplemental Lease Agreement to memorialize the cost of the Warm Lit Shell, and the TIA will begin to be applied to the cost of the Government Project once the cost of the Warm Lit Shell has been expended.

10. THE GOVERNMENT PROJECT:

- a) *The FTC Project:* As the design and supervisory architect for the FTC Space's build-out (the "FTC Project"), the Government shall use the Lessor's architect, DBI Architects, Inc. ("DBI"). DBI's duties will include: (i) assisting the FTC's architect, Nandinee Phookan Architects ("NPA"), in NPA's preparation of the design intent drawings for the FTC Project (the "DIDs"), at no additional cost to the Government; (ii) preparing full construction drawings for the FTC Project ("CDs") after the FTC approves the final DIDs; and (iii) serving as the supervisory architect during the FTC Project's construction. The Lessor will also procure the services of reputable and qualified companies to: (x) design and engineer the FTC's information technology ("IT") installation based upon specifications developed by the FTC with input from the company procured by the Lessor; and (y) provide mechanical, electrical, and plumbing ("MEP") and structural engineering services for the FTC Project. Such services may be provided under a contract with the Lessor or DBI. Prior to completion of the DIDs, the Lessor will retain James G. Davis Construction Company ("Davis") as the general contractor for the FTC Project (the "General Contractor") under a contract that will provide a typical mechanism for establishing a GMP based upon: (i) one hundred percent (100%) CDs; (ii) at least three (3) bids having been solicited for each major subcontractor work package; and (iii) a General Contractor fee of 2.95%. Davis will also provide pre-construction services, including cost estimating. Except as set forth above, the design and construction of the FTC Project shall otherwise proceed in accordance with the Project Schedule and SFO Paragraph 5.11 (Construction Schedule and Acceptance of Tenant Improvements), except that the Project Schedule shall control if a conflict exists between the Project Schedule and SFO Paragraph 5.11.
- b) *The NEA/NEH Project:* As the design and supervisory architect for the NEA/NEH Space's build-out (the "NEA/NEH Project"), the Government shall use DBI. The Lessor will also procure the services of one or more reputable and qualified companies to provide MEP and structural engineering services for the NEA/NEH Project. Such services may be provided under a contract with the Lessor or DBI. Prior to completion of the DIDs, the Lessor will retain Davis as the General Contractor under a contract that will provide a typical mechanism for establishing a GMP based upon: (i) one hundred percent (100%) CDs; (ii) at least three (3) bids having been solicited for each major subcontractor work package; and (iii) a General Contractor fee of 2.95%. Davis will also provide pre-construction services, including cost estimating. Except as set forth above, the design and construction of the NEA/NEH Project shall otherwise proceed in accordance with the Project Schedule and SFO Paragraph 5.11 (Construction Schedule and Acceptance of Tenant Improvements), except that the Project Schedule shall control if a conflict exists between the Project Schedule and SFO Paragraph 5.11.
- c) *Fees:* The aggregate amount of the fees to which the Lessor is entitled for the third-party architectural, engineering, and IT consulting services that the Lessor is required to provide under Paragraphs 10(a) and 10(b) above shall be four and eighty-five one hundredths percent (4.85%) of the GMP. The Lessor's project management fee shall be two percent (2%) of the GMP. Such fees shall be credited against the TIA.
- d) *Subcontracts:* Contracts with subcontractors shall be awarded on the basis of at least three (3) competitive bids to the extent reasonably feasible, and the Lessor shall have the right to select the winning subcontractor from among the bidders, subject to the Government's prior written approval, which may not be unreasonably withheld, conditioned, or delayed.
- e) *Bonding:* There are no bonding requirements regarding any general contractor or subcontractor.
- f) *Specialty Items:* Subject to the Lessor's prior written approval, which may not be unreasonably withheld, conditioned, or delayed, the Government shall have the right to incorporate special tenant improvements (in the way of improvements or upgrades) into the Leased Premises, including, but not limited to, facilities for computers, separate self-contained air conditioning systems, conference and meeting room facilities, dining rooms, lunchrooms, training facilities, telephone equipment rooms, fiber optics, and other special facilities incidental to the Government's office operations, provided that: (i) the items do not require structural alterations to the Building or materially and adversely affect Building systems, or increase the Lessor's operating or maintenance expenses for the Building (unless the Government agrees to pay such increased costs);

(b) (6)
Initials: [Redacted]
Lessor Government

and (ii) all IT installations shall utilize the cable tray pathways and IT protocols provided by the Lessor, as more particularly set forth in Paragraph 18 of this SF-2.

- g) *Building Standard Finishes*: The Government is not required to use building standard finishes, but if the Government requests any upgrade from a building standard finish, the cost attributable to the upgrade shall be paid by the Government out of the TIA.
- h) *Subsequent Alterations*: If the Government wishes to exercise its right to make alterations, attach fixtures, and erect structures or signs in or upon the Leased Premises under Clause 19 (Alterations) of the General Clauses:
 - i) The Lessor's consent thereto shall be required if the alteration requires a building permit, and the Lessor may only deny its consent if the alteration (1) necessitates structural alterations to the Building; (2) materially and adversely affects Building systems; or (3) will increase the Lessor's operating or maintenance expenses for the Building or the Lessor's restoration costs at the expiration or earlier termination of the Lease, unless the Government agrees to pay such additional costs or restoration costs, provided that any such agreement to pay such costs shall be memorialized in a Supplemental Lease Agreement executed by both parties at the time of the Lessor's consent; and
 - ii) The Lessor's fee:
 - (1) if the Lessor agrees that the Government may hire the general contractor to perform the alteration work, shall be the actual costs for third-party review of plans and third-party reasonable oversight of the alteration work; or
 - (2) if the Lessor performs the alteration work or hires the general contractor, shall be negotiated based on scope. The Lessor shall charge no fees for work that is merely cosmetic in nature, such as painting, wallpapering, or carpet replacement.

11. REAL ESTATE TAXES AND TAX ADJUSTMENT:

- a) For purposes of tax adjustments as contemplated by SFO Paragraph 4.2 (Tax Adjustment), the Government's "Percentage of Occupancy" under SFO Paragraph 4.2 is 26.40%, as calculated: 372,299 RSF/1,410,431 RSF.
- b) For purposes of determining the "Real Estate Tax Base" under SFO Paragraph 4.2, the Building shall not be considered "Fully Assessed" unless the Real Estate Taxes are based upon a fully leased building with a stabilized net operating income or otherwise grossed up or adjusted to reflect a fully leased building with a stabilized net operating income.
- c) The Government shall pay the annual real estate tax adjustment within thirty (30) calendar days after receipt of the proper invoice and evidence of payment from the Lessor.
- d) Notwithstanding anything to the contrary stated in SFO Paragraph 4.2, the proper invoice and evidence of payment shall be submitted to the Government within sixty (60) calendar days of the date that the final payment for the applicable Tax Year is due (i.e., because the District of Columbia bills semi-annually, the Lessor shall be required to submit the proper invoice and evidence of payment for both the first half and second half of the Tax Year within sixty (60) calendar days of when the payment for the second half of the Tax Year is due).
- e) SFO Paragraph 4.2.D is deleted in its entirety and the following substituted therefor:

The Government may direct the Lessor upon reasonable notice to initiate a tax appeal at the Government's sole cost and expense. The Lessor shall cooperate with the Government and shall use all reasonable efforts to pursue such tax appeal to completion. The Government shall, in addition to the Lessor's costs therefor, bear all of the risk and benefit resulting from such appeal. As such, the Government shall: (i) promptly reimburse the Lessor for all direct or indirect costs incurred by the Lessor in connection with such appeal; (ii) promptly reimburse the Lessor for any increase in real property taxes that may be assessed as a result of such appeal; and (iii) be entitled to any decrease in real property taxes that may occur as a result of such appeal. In no event shall the Government initiate a tax appeal.

12. ADJUSTMENT FOR VACANT PREMISES:

The adjustment for vacant premises under SFO Paragraph 4.4 (Adjustment for Vacant Premises) shall be \$1.49/ABOA. Furthermore, any rental reduction attributable to operating costs under SFO Paragraph 4.4 will be applicable only if the premises vacated or not occupied is more than one (1) full floor of the Leased Premises.

(b) (6)

Initials

Lessor

Government

13. **NORMAL HOURS:**

SFO Paragraph 4.5 (Normal Hours) is deleted in its entirety and the following substituted therefore:

Services, utilities, and maintenance shall be provided Monday-Friday, extending 7:00 a.m. to 7:00 p.m., and Saturday, extending 7:00 a.m. to 1:00 p.m., excluding federal holidays ("Normal Hours").

14. **OVERTIME USAGE:**

Pursuant to SFO Paragraph 4.6 (Overtime Usage) and notwithstanding SFO Paragraph 4.5, the Lessor shall provide heating, ventilation, and air-conditioning (HVAC) at any time beyond the Normal Hours at a rate of \$80.00 per hour (four [4] hour minimum) for the first floor, to cover the cost of Lessor personnel required to provide this overtime service, including a building engineer. This overtime rate is subject to the Lessor's adjustment, not more than once in any 12-month period, to account for the Lessor's increased costs for building personnel to provide such overtime services. Overtime HVAC costs for additional floors utilized simultaneously with the first floor shall be \$14.00 per hour per floor, with no minimum number of hours required, which overtime rate is subject to the Lessor's adjustment, not more than once in any 12-month period, in accordance with market rates. To receive payment, the Lessor shall submit a proper invoice monthly to the designated Government official. Each request for overtime service must be submitted in writing by the Government using the Lessor's workspeed automated system. If the building engineer is not affiliated with a union that requires a four (4) hour minimum to provide engineering services, the Government shall only be required to pay for the building engineer for the actual duration of the overtime HVAC service. The Government reserves the right to require the Lessor to provide documentation that confirms that the overtime HVAC rate reflects the Lessor's actual costs. If the overtime HVAC rate does not reflect the Lessor's actual costs, the Lessor and the Government agree to renegotiate this rate and memorialize the renegotiated rate in a Supplemental Lease Agreement.

Notwithstanding SFO Paragraph 4.6.C to the contrary, the Government's micro-purchase authority is \$2,000 or less.

15. **PROJECT SCHEDULE:**

a) The parties hereby agree to finalize the Project Schedule no later than November 15, 2012, and said Project Schedule shall be memorialized in a Supplemental Lease Agreement. Further, notwithstanding anything to the contrary contained in Lease, the Project Schedule shall be the schedule that governs the timing for the design, construction, and completion of the Leased Premises. Should either the Government or the Lessor fail to discharge their responsibilities under the Lease within the time allocated under the Project Schedule, such failure shall constitute "Delay," unless it constitutes Excusable Delay. The absolute number of days of Government Delay, to be calculated upon the Government's acceptance of the last Phase, if any, shall constitute the amount by which the total number of days of Delay caused by the Government exceeds the total number of days of Delay caused by the Lessor pursuant to the Project Schedule. The Government shall pay the Lessor as fixed and agreed liquidated damages the sum of one day's rent for the entire Leased Premises for each and every day of Government Delay. This remedy is not exclusive and is in addition to any other remedies that may be available under this Lease or at law. This liquidated sum is not meant as a penalty, but as an approximation of actual damages that the Lessor would incur due to Government Delay. Any liquidated damages that the Government pays for Government Delay prior to actual occupancy shall be less the cost for services and utilities. Damages for Lessor Delay, if any, shall be governed by SFO Paragraph 5.6 (Liquidated Damages).

b) SFO Paragraph 5.6 (Liquidated Damages) is deleted in its entirety and replaced with the following Paragraph:

"LIQUIDATED DAMAGES (AUG 2008)

In case of failure on the part of the Lessor to complete the work within the time fixed in the lease contract, the Lessor shall pay the Government as fixed and agreed liquidated damages, pursuant to this Paragraph, the sum of one day's rent for each and every calendar day that the delivery is delayed beyond the date specified for delivery of all the space ready for occupancy by the Government. This remedy is not exclusive and is in addition to any other remedies which may be available under this Lease or at law. This liquidated sum is not meant as a penalty, but as an approximation of actual damages that would be suffered by the Government as a result of the Lessor's delay."

16. **OPERATING COSTS:** SFO Paragraph 4.3 (Operating Costs) is deleted in its entirety and replaced with the following Paragraph:

a) The base rate for annual operating cost adjustments is set forth in Paragraph 5(i) above.

b) Beginning with the second year of the Lease and each year thereafter, the Government shall pay annual incremental adjusted rent for changes in costs for cleaning services, supplies, materials, maintenance, trash removal, landscaping, water, sewer charges, heating, electricity, and certain administrative expenses attributable to occupancy. Applicable costs listed on GSA Form 1217, Lessor's Annual Cost Statement, after being negotiated and agreed upon, were used to determine the base rate for annual operating costs adjustment.

Initials: (b) (6)
Lessor/ Government

- c) The amount of adjustment will be determined by multiplying the base rate by the annual percent of change in the Cost of Living Index. The percent change will be computed by comparing the index figure published for the month prior to the Lease Commencement Date with the index figure published for the month prior which begins each successive 12-month period. For example, a lease which commences in June of 2012 would use the index published for May of 2012, and that figure would be compared with the index published for May of 2013, May of 2014, and so on, to determine the percent change. The Cost of Living Index will be measured by the Department of Labor revised Consumer Price Index for urban wage earners and clerical workers, U.S. city average, all items figure, (1982 to 1984 = 100) published by the Bureau of Labor Statistics. Payment will be made with the monthly installment of fixed rent. Rental adjustments will be effective on the anniversary date of the Lease; however payment of the adjusted rental rate will become due on the first workday of the second month following the publication of the Cost of Living Index for the month prior to the commencement of each 12-month period.
- d) In the event of any decreases in the Cost of Living Index occurring during the term of the occupancy under the Lease, the rental amount will be reduced accordingly. The amount of such reductions will be determined in the same manner as increases in rent provided under this Paragraph.
- e) For the purposes of this Paragraph and for annual operating cost adjustments under this Paragraph, the foregoing expenses are not included in the base rate for operating costs adjustment: (i) the Building Amenities Operating Expenses, as defined in Paragraph 17 below; and (ii) the operating costs for the Security Enhancements, as defined in Paragraph 20 below, that are in excess of the operating costs for the Minimum Security Services, as defined in Paragraph 20 below. The Government will also be solely responsible for those Special Event Related Costs that relate to the Government's use of the Building Amenities for its events pursuant to Paragraph 17 below.

17. OPERATING COSTS FOR BUILDING AMENITIES:

- a) The parties agree that GSA Form 1217, attached hereto as Exhibit L, includes the cost of electricity and janitorial services (i.e. typical nighttime office area cleaning) associated with the Building Amenities, as such Building Amenities are described in Exhibit F attached hereto.
- b) As used herein, the term "Building Amenities Operating Expenses" means those costs associated with the operation, maintenance, and repair of the Auditorium and the Conference Center, but only to the extent such costs exceed (b) (5) which (b) (5) amount is the "Building Amenities Operating Expenses Base." The Building Amenities Operating Expenses Base, which is included in the base rate for annual operating cost adjustments, represents that portion of the costs described in subparagraph (a) above that is allocable to the Auditorium and the Conference Center based on the Auditorium and the Conference Center's combined square footage of 26,335 RSF. Building Amenities Operating Expenses shall not include costs traceable or directly attributable to a particular event or use of the Building Amenities, which costs shall be referred to as "Special Event Related Costs." The Government shall pay for any Special Event Related Costs in a lump sum payment within thirty (30) days of the Lessor's submission to the Contracting Officer of an invoice for the Special Event Related Costs associated with a particular event or use of the Building Amenities.
- c) Within ninety (90) days after the first lease year's anniversary date, the Lessor shall submit to the Contracting Officer an audited accounting that sets forth the following: (i) the total costs associated with the operation, maintenance, and repair of the Auditorium and the Conference Center for the preceding lease year (the "Total Building Amenities Operating Expenses"); (ii) the Building Amenities Operating Expenses Base; and (iii) the Building Amenities Operating Expenses, which amount shall be the difference between items (i) and (ii) (the "Audited Accounting"). In other words, the Building Amenities Operating Expenses shall be calculated as follows:

$$\begin{array}{r} \text{Total Building Amenities Operating Expenses} - \text{Building Amenities Operating Expenses Base (b) (5)} \\ = \\ \text{Building Amenities Operating Expenses} \end{array}$$

The Government shall pay to the Lessor the first year's Building Amenities Operating Expenses that are set forth in the first lease year's Audited Accounting in a lump sum payment within thirty (30) days of the Lessor's submission of the first lease year's Audited Accounting.

- d) Within ninety (90) days after the second lease year's anniversary date, the Lessor shall submit to the Contracting Officer the second lease year's Audited Accounting. The second lease year's Building Amenities Operating Expenses that are set forth in the second lease year's Audited Accounting, as calculated per subparagraph (c) above, shall be added (if the Building Amenities Operating Expenses are a positive number) or subtracted (if the Building Amenities Operating Expenses are a negative number) to the base rate for annual operating cost adjustments.

For example, if the Building Amenities Operating Expenses are (b) (5) i.e., the Total Building Amenities Operating Expenses in the second lease year were (b) (5) then the new base rate for (b) (6)

Initials: _____
Lessor _____ Government _____

annual operating cost adjustments shall be (b) (5) higher, and if the Building Amenities Operating Expenses are (b) (5) i.e., the Total Building Amenities Operating Expenses in the second lease year were (b) (5) (b) (5) then the new base rate for annual operating cost adjustments shall be (b) (5) lower.

The new base rate for annual operating cost adjustments and the resulting new rental rate shall be memorialized in a Supplemental Lease Agreement and shall be effective for the month following the month in which the Lessor submitted the second lease year's Audited Accounting, i.e., if the Lessor submits the second lease year's Audited Accounting in May, the new base rate for annual operating cost adjustments and the resulting new rental rate shall be effective in June.

18. COMMUNICATIONS AND COMPUTER LINES:

Notwithstanding anything to the contrary contained in SFO Paragraphs 8.13 (Telecommunications: Distribution and Equipment and 8.14 (Telecommunications: Local Exchange Access) and Clause 19 (Alterations) of the General Clauses or any other provision of this Lease, in connection with the Government's installation, maintenance, replacement, removal, or use of its cable trays or pathways and its communications and computer conduit equipment, enclosures, transmission media, and related equipment to service the Leased Premises (collectively, the "Government Lines"), which shall be at the Government's sole cost and expense, the Government shall use the prescribed cable tray pathways as shown on the plan attached hereto as Exhibit E, as well as any Building conduits serving the Leased Premises and shall comply with all Building protocols regarding the installation, maintenance, replacement, removal, or use of the Government Lines. In addition, (i) the Government Lines shall be located solely within the Lessor's telecommunications infrastructure or the Leased Premises; (ii) the Government Lines shall not unreasonably interfere with the use of any communications or computer line(s) at the Building; and (iii) if any Government Line(s) require shielding in order to prevent such Government Line(s) from causing electromagnetic interference to any communications or computer line(s) installed by the Lessor or any other person, the Government shall install such shielding, at the Government's sole cost and expense, as shall be necessary to eliminate such interference. The Lessor may reasonably direct, monitor, and supervise the installation, maintenance, replacement, removal, and use of the Government Lines.

The telecommunications service providers that currently serve the Building are:

Verizon
Sprint
AT&T
T-Mobile

The Government shall select one (1) or more of the above-listed telecommunications service providers, and such provider(s) will be given access to the Building pathways and risers at no cost. If none of the above-listed providers offers services required by the Government, then the Government shall have the right to bring another provider to the Building at the Government's sole cost and expense, and such provider shall comply with the provisions of this Paragraph.

19. BUILDING AMENITIES:

As set forth above, the Building Amenities include an Auditorium, Conference Center, Cafeteria, and Fitness Center. Exhibit F attached hereto sets forth the terms and conditions of the Government's use of the Building Amenities and the Government's obligation to pay for its proportionate share of the Building Amenities Construction Costs, as defined below. Paragraph 17 above sets forth the terms and conditions of the Government's obligation to pay for the Building Amenities Operating Expenses and Special Event Related Costs. The Fitness Center will be constructed at the Lessor's expense. With respect to the Building Amenities Construction Costs, the Lessor shall have the right to apply a portion of the TIA towards construction costs and other costs directly related to the design, engineering, equipping, and construction of the Building Amenities, excluding the Fitness Center, but including third-party supervision of such construction (the "Building Amenities Construction Costs"). Such portion of the TIA shall be applied as and when the Lessor actually incurs such Building Amenities Construction Costs, equal to the lesser of: (i) the Government's pro rata share of the Building Amenities Construction Costs based on the Government's Percentage of Occupancy; or (ii) \$8.00 per the Leased Premises's RSF.

20. ACCESS AND SECURITY:

- a) The Lessor shall provide the Government with access 24 hours a day, 7 days a week, 365 days of the year to the Leased Premises and the Building's garage. At least one (1) passenger elevator and one (1) freight elevator in the Southwest quadrant will be in service at all times after Normal Hours.
- b) The Building will have the following Building security enhancements: (a) an area adjacent to the 7th Street lobby with a visitor screening area, a security operations center, a security guard day room, a security force commander's office, and assorted support functions; (b) an area adjacent to the Metro entrance lobby for visitor screening; (c) physical access control in each lobby with a barrier of glass partitions and electronic turnstiles; (d) an area behind the loading dock, equipped to screen and handle incoming mail and packages and receive outgoing mail and packages for third party pickup; and (e) additional physical

Initials: (b) (6)

Lessor Government

security and rapid functioning doors at each of the two garage entrances (collectively, the "Security Enhancements"). The existing Building tenants, FHFA and OCC, have approved of the design for the interior Security Enhancements. Construction and installation of the Security Enhancements is expected to begin in October 2012 and will be completed by March 1, 2013. The Lessor shall have the right to apply a portion of the TIA toward construction costs and other costs directly related to the design, engineering, equipping, and construction supervision of the Security Enhancements (collectively, the "Security Enhancements Costs"). Such portion of the TIA shall be applied as and when the Lessor actually incurs the Security Enhancements Costs, and such portion shall be the lesser of: (i) the Government's pro rata share of the Security Enhancements Costs based on the Government's Percentage of Occupancy; or (ii) \$2.30 per the Leased Premises's RSF.

- c) Notwithstanding anything to the contrary contained in SFO Paragraph 10 (Lease Security Requirements) or any other provision of this Lease, the Lessor shall only be required to provide the following security services during the Term: one (1) uniformed security guard in one of the two Building entrance lobbies and one (1) uniformed security guard in the other Building entrance lobby during Normal Hours (the "Minimum Security Services").
- d) The costs of providing, operating, and maintaining the Minimum Security Services (but not the cost of constructing, acquiring, and/or installing the facilities, equipment, apparatus, and systems to provide the Minimum Security Services) shall be included as part of the Building's base rate for operating costs adjustments and shall be subject to annual operating cost adjustments under SFO Paragraph 4.3 (Operating Costs).
- e) If the Government or any other Building tenant requests or requires security in excess of the Minimum Security Services ("Additional Security Services"), any such Additional Security Services shall be subject to the Lessor's prior written consent, which consent may not be withheld, conditioned, or delayed, and if the Lessor consents, the Lessor will provide the Additional Security Services through the Building's security contractor. If Building tenant(s) that collectively lease at least eighty-five percent (85%) of the Building's office space approve of any Additional Security Services, the cost of constructing, acquiring, and/or installing the facilities, equipment, apparatus, and systems necessary for providing such Additional Security Services shall be shared pro rata by all Building tenants based on their respective percentages of occupancy in the Building as additional rent. If a Building tenant requests any Additional Security Services for its own benefit, the cost of constructing, acquiring, and/or installing the facilities, equipment, apparatus, and systems necessary for providing such Additional Security Services and the operating costs for such Additional Security Services shall be paid for by the requesting Building tenant as additional rent. Notwithstanding the foregoing, if the Government is required by statute or regulation to implement Additional Security Services, the Lessor's consent shall not be required, but the Government shall notify the Lessor and coordinate such Additional Security Services with the Lessor.

21. **SIGNAGE:**

- a) *Exterior Signage:* The FTC will be allowed to have a sign, with its official agency symbol, placed on the Building's exterior at the Building's main entrance and the Building's Metro entrance. The shape and size of any such sign shall be consistent with the signage that the Lessor permits for any other Tenant Agency, and the Lessor will designate the location for any such sign after consultation with the FTC. The cost of any permitted sign and its installation shall be paid by the Government, and the Government will cooperate with the Lessor in seeking any approval required by the District of Columbia. No Building tenant, including any Tenant Agency, shall have the right to any exterior signage unless such Building tenant occupies at least 225,000 RSF.
- b) *Interior Signage:* The Lessor, at the Lessor's expense, shall furnish the Government with building directory listings in the Building's main lobby.

22. **MAINTENANCE:**

Notwithstanding anything to the contrary contained in the SFO or elsewhere in this Lease: (i) the cost of any janitorial services in the Leased Premises beyond those described in SFO Paragraph 4.8 (Janitorial Services) shall be at the Government's sole cost and expense; (ii) the Lessor shall cause the Building exterior and common areas to be painted with such frequency as may be necessary to maintain appearance consistent with a first class office building in Washington, D.C., but in no event will the Lessor be required to paint the Building exterior and common areas more than once every three (3) years; (iii) any requirement to maintain wall finishes in "like new" condition shall be subject to normal wear and tear; (iv) any requirement to repair, replace, or repaint any wall finishes, surfaces, or flooring/floor covering in the Leased Premises stated in the SFO or elsewhere in this Lease shall be at the Government's sole cost and expense, unless any such need to repair, replace, or repaint was caused by the Lessor or by those for whose conduct the Lessor is responsible; and (v) if any work or service, including, but not limited to, any carpet cleaning, floor covering replacement, maintenance, or repair, that the Lessor shall perform under the Lease requires the moving and returning or replacing of the Government's furniture (including workstations), fixtures, or equipment, including disassembly and reassembly thereof, then all such moving and returning or replacing shall be at the Government's sole cost and expense.

(b) (6)
Initials _____
Lessor/ Government

23. SPECIAL EQUIPMENT:

Notwithstanding anything to the contrary contained in the SFO, or elsewhere in this Lease, the Government shall be responsible for maintaining, repairing, and replacing any special equipment installed by or for the Government, including, but not limited to, dedicated/self-contained HVAC equipment, independent controls, special lighting fixtures, special storage systems, telecommunications equipment, computer equipment, vending facilities, audio-visual equipment, executive kitchens, additional bathrooms, conference room equipment, emergency power systems, generators, special window coverings, modular or systems furniture, data equipment, additional security related equipment (including, but not limited to, magnetometers and x-ray machines), mail-handling equipment, appliances, and wiring related to any of the foregoing ("Special Equipment"). The Government shall also be responsible for any increase in actual operating costs associated with any Special Equipment, and the calculation of any such increase and the manner in which the Government pays for any such increase will be memorialized in a Supplemental Lease Agreement. Notwithstanding SFO Paragraph 4.11, upon the Government's request, the Lessor will agree to maintain the Special Equipment or to hire a contractor to maintain the Special Equipment at the Government's sole cost and expense, which arrangement will be further specified in a separate maintenance contract and memorialized in a Supplemental Lease Agreement.

24. RESTRICTED USES:

The Lessor has not and shall not during the Lease Term enter into a lease at the Building with any retail tenant whose use is not consistent with a first class office building in downtown Washington, D.C.

25. SAFEGUARDING AND DISSEMINATION OF SENSITIVE BUT UNCLASSIFIED (SBU) BUILDING INFORMATION (JUN 2009):

This Paragraph applies to all recipients of SBU building information, including offerors, bidders, awardees, contractors, subcontractors, lessors, suppliers, and manufacturers.

- a) **MARKING SBU.** Contractor-generated documents that contain building information must be reviewed by GSA to identify any SBU content, before the original or any copies are disseminated to any other parties. If SBU content is identified, the Contracting Officer may direct the contractor, as specified elsewhere in this contract, to imprint or affix SBU document markings to the original documents and all copies, before any dissemination.
- b) **AUTHORIZED RECIPIENTS.** Building information considered SBU must be protected with access strictly controlled and limited to those individuals having a need to know such information. Those with a need to know may include Federal, State, and local government entities, and nongovernment entities engaged in the conduct of business on behalf of or with GSA. Nongovernment entities may include architects, engineers, consultants, contractors, subcontractors, suppliers, and others submitting an offer or bid to GSA or performing work under a GSA contract or subcontract. Contractors must provide SBU building information when needed for the performance of official Federal, State, and local government functions, such as for code compliance reviews and for the issuance of building permits. Public safety entities such as fire and utility departments may require access to SBU building information on a need to know basis. This clause must not prevent or encumber the dissemination of SBU building information to public safety entities.
- c) **DISSEMINATION OF SBU BUILDING INFORMATION:**
 - i) **BY ELECTRONIC TRANSMISSION.** Electronic transmission of SBU information outside of the GSA firewall and network must use session (or alternatively file encryption) Sessions (or files) must be encrypted with an approved NIST algorithm, such as Advanced Encryption Standard (AES) or Triple Data Encryption Standard (3DES), in accordance with Federal Information Processing Standards Publication (FIPS PUB) 140-2, Security Requirements for Cryptographic Modules Encryption tools that meet FIPS 140-2 are referenced on the NIST web page found at the following URL: [HTTP://CSRC.NIST.GOV/GROUPS/STM/CMVP/DOCUMENTS/140-1/1401_VEND.HTM](http://CSRC.NIST.GOV/GROUPS/STM/CMVP/DOCUMENTS/140-1/1401_VEND.HTM). All encryption products used to satisfy the FIPS 140-2 requirement should have a validation certificate that can be verified at the following URL: [HTTP://CSRC.NIST.GOV/GROUPS/STM/CMVP/VALIDATION.HTML#02](http://CSRC.NIST.GOV/GROUPS/STM/CMVP/VALIDATION.HTML#02). (Not all vendors of security products that claim conformance with FIPS 140-2 have validation certificates). Contractors must provide SBU building information only to authorized representatives of State, Federal, and local government entities and firms currently registered as "active" in the Central Contractor Registration (CCR) database at WWW.CCR.GOV that have a need to know such information. If a subcontractor is not registered in the CCR and has a need to possess SBU building information, the subcontractor shall provide to the contractor its DUNS number or its tax ID number and a copy of its business license.
 - ii) **BY NON-ELECTRONIC FORM OR ON PORTABLE ELECTRONIC DATA STORAGE DEVICES.** Portable electronic data storage devices include but are not limited to CDs, DVDs, and USB drives. Non-electronic forms of SBU building information include paper documents.
 - (1) By mail. Utilize only methods of shipping that provide services for monitoring receipt such as track and confirm, proof of delivery, signature confirmation, or return receipt.

Initials: (b) (6)
Lessor  Government

- (2) In person. Contractors must provide SBU building information only to authorized representatives of State, Federal, and local government entities and firms currently registered as "active" in the CCR database that have a need to know such information.
- iii) RECORD KEEPING. Contractors must maintain a list of the State, Federal and local government entities and the firms to which SBU is disseminated under Sections C1 and C2 of this clause. This list must include at a minimum (1) the name of the State, Federal, or local government entity or firm to which SBU has been disseminated; (2) the name of the individual at the entity or firm who is responsible for protecting the SBU building information, with access strictly controlled and limited to those individuals having a need to know such information; (3) contact information for the named individual; and (4) a description of the SBU building information provided. Once work is completed, or for leased space with the submission of the "as built" drawings, the contractor must collect all lists maintained in accordance with this clause, including those maintained by any subcontractors and/or suppliers, and submit them to the Contracting Officer. For federal buildings, final payment may be withheld until the lists are received.
- d) RETAINING SBU DOCUMENTS. SBU building information (both electronic and paper formats) must be protected, with access strictly controlled and limited to those individuals having a need to know such information.
- e) DESTROYING SBU BUILDING INFORMATION. SBU building information must be destroyed such that the marked information is rendered unreadable and incapable of being restored, *or returned to the Contracting Officer*, when no longer needed, in accordance with guidelines provided for media sanitization within Appendix A of NIST Special Publication 800-88, Guidelines for Media Sanitization, available at: [HTTP://CSRC.NIST.GOV/PUBLICATIONS/NISTPUBS/800-88/NISTSP800-88-REV1.PDF](http://CSRC.NIST.GOV/PUBLICATIONS/NISTPUBS/800-88/NISTSP800-88-REV1.PDF). *If SBU building information is not returned to the Contracting Officer*, examples of acceptable destruction methods for SBU building information are burning or shredding hardcopy, physically destroying portable electronic storage devices such as CDs, DVDs, and USB drives, deleting and removing files from electronic recycling bins, and removing material from computer hard drives using a permanent-erase utility such as bit wiping software or disk crushers.
- f) NOTICE OF DISPOSAL. The contractor must notify the Contracting Officer that all SBU building information has been destroyed, *or returned to the Contracting Officer*, by the contractor and its subcontractors or suppliers in accordance with Section (e) of this clause, with the exception of the contractor's record copy. This notice must be submitted to the Contracting Officer at the completion of the contract in order to receive final payment. For leases, this notice must be submitted to the Contracting Officer at the completion of the lease term.
- g) INCIDENTS. All improper disclosures of SBU building information must be immediately reported to the Contracting Officer. If the contract provides for progress payments, the Contracting Officer may withhold approval of progress payments until the contractor provides a corrective action plan explaining how the contractor will prevent future improper disclosures of SBU building information. Progress payments may also be withheld for failure to comply with any provision in this clause until the contractor provides a corrective action plan explaining how the contractor will rectify any noncompliance and comply with the clause in the future.
- h) SUBCONTRACTS. The Contractor must insert the substance of this clause in all subcontracts.

26. GENERAL CLAUSES:

The following provisions of the General Clauses are amended as follows:

- a) Notwithstanding anything to the contrary contained in Clause 11 (Default in Delivery – Time Extensions) or Clause 16 (Default by Lessor During the Term) of the General Clauses or elsewhere in this Lease, before the Government may initiate a remedy in the case of an alleged default by the Lessor, the Government shall notify the Lessor and any mortgagee or deed of trust holder of the Building of which the Government has notice ("Lessor's Lender") of the default in writing. The Lessor shall have a thirty (30) day cure period following receipt of such notice from the Contracting Officer for any default by the Lessor; provided, however, that if such cure cannot reasonably be effected within such thirty (30) day period and Lessor so notifies the Government, and the Lessor begins such cure promptly within such period and is pursuing such cure in good faith and with diligence and continuity during such period, then, except in the event of an emergency, the Lessor shall have such additional time (up to an additional sixty [60] days) as reasonably necessary to effect such cure. Any additional time to cure the default shall be conditioned upon a demonstration by the Lessor to the reasonable satisfaction of the Contracting Officer through the submission of a detailed schedule and construction management plan that the default can be cured within the additional time. The Government shall afford Lessor's Lender, if any, a reasonable period of time (not less than thirty [30] days after receipt of notice) to cure any default in lieu of the Lessor doing so. Any such cure by Lessor's Lender, if performed to the Government's reasonable satisfaction, shall be accepted by the Government as if the Lessor had so cured. Notwithstanding anything in this subparagraph (a), if the default is of a health or life threatening nature, this subparagraph shall not apply, and the Government may exercise its rights as stated in Clause 11 or Clause 16(a) or other provisions of the Lease.

Initials:

(b) (6)

Lessor

Government

- b) Clause 18 (Fire and Casualty Damage) of the General Clauses is deleted in its entirety and the following substituted therefor:

If the Building in which the Leased Premises are located is totally destroyed by fire or other casualty, this Lease shall immediately terminate. If the Building in which the Leased Premises are located are only partially destroyed or damaged, so as to render the Leased Premises untenable, or not usable for their intended purpose, the Lessor shall have the option to elect to repair and restore the Leased Premises or terminate the Lease. The Lessor shall be permitted a reasonable amount of time, not to exceed **270 days** from the event of destruction or damage, to repair or restore the Leased Premises, provided that the Lessor submits to the Government a reasonable schedule for repair of the Leased Premises within **60 days** of the event of destruction or damage. If the Lessor fails to timely submit a reasonable schedule for completing the work, the Government may elect to terminate the Lease effective as of the date of the event of destruction or damage. If the Lessor elects to repair or restore the Leased Premises, but fails to repair or restore the Leased Premises within **270 days** from the event of destruction or damage, or fails to diligently pursue such repairs or restoration so as to render timely completion commercially impracticable, the Government may terminate the Lease effective as of the date of the destruction or damage. During the time that the Leased Premises are unoccupied, rent shall be abated. Once the Government reoccupies the damaged space, the Lessor shall give the Government a rental credit for any additional rent paid by the Government for substitute space in excess of the rent for the same amount of space that would have been due under this Lease, and will also give the Government a rental credit for its reasonable costs to move and return to the Leased Premises. Termination of the Lease by either party under this clause shall not give rise to liability for either party.

This clause substitution shall not apply if the event of destruction or damage is caused by the Lessor's negligence or willful misconduct, and Clause 18 (Fire and Casualty Damage) of the General Clauses shall apply.

- c) Clause 2 (Subletting and Assignment) of the General Clauses is deleted in its entirety and the following substituted therefor:

The Government may sublease all or any part of the Leased Premises to any agency, entity, or instrumentality of the United States ("Federal Agency") or may assign this Lease to a Federal Agency, in each case without the Lessor's consent; provided however, that: (i) the Government shall notify the Lessor in writing of any proposed subleasing or assignment at least thirty calendar (30) days prior to the effective date of such sublease or assignment, and such notice shall contain the name and operational unit (if available) of the Federal Agency to which the Government proposes to make the sublease or assignment, together with the details regarding the intended use of the space by such Federal Agency; and (ii) the Lessor's prior written consent shall be required if the anticipated use by the Federal Agency of any part of the Leased Premises will involve walk-in service or will otherwise substantially increase the number or frequency of visitors to the Leased Premises in excess of the number or frequency normally associated with the use of the Leased Premises for general office and related space in a first class office building in Washington, D.C. If the Lessor's consent is required for any assignment of the Lease or sublease of all or any part of the Leased Premises under this Clause and the Lessor fails to either consent or reject to the Government's proposed assignment or sublease within fourteen (14) calendar days after the Lessor's receipt of the notice of assignment or sublease, then the Lessor shall be deemed to have consented to the proposed assignment or sublease, as applicable. The assignment or sublease notice shall contain a sentence, in size 14-point font, stating "THE LESSOR'S FAILURE TO RESPOND TO THIS NOTICE WITHIN FOURTEEN (14) CALENDAR DAYS AFTER THE LESSOR'S RECEIPT HEREOF SHALL CONSTITUTE THE LESSOR'S CONSENT TO THE PROPOSED ASSIGNMENT OR SUBLEASE." The Government may not sublease the Leased Premises or assign this Lease to any party that is not a Federal Agency.

Notwithstanding anything to the contrary contained in Clause 2 (Subletting and Assignment) of the General Clauses or elsewhere in this Lease, in the event that the Government desires to assign this Lease or sublease the Leased Premises, which assignment or sublease is for a term which is at least seventy-five percent (75%) of the remaining Lease Term, then the Government shall provide the Lessor with a written notice that reasonably details the assignment or sublease, the space that the Government desires to sublease if a sublease, and the proposed effective date of such assignment or sublease (the "Recapture Date"), which Recapture Date shall be no later than one hundred twenty (120) days after the date of the Government's notice to the Lessor of such assignment or sublease (the "Transfer Notice"). In such event, the Lessor shall have the right (the "Recapture Right"), exercisable upon written notice to the Government within fifteen (15) days after the date on which the Lessor receives the Transfer Notice, to terminate this Lease with respect to the portion of the Leased Premises which was the subject of the Transfer Notice only (the "Recapture Premises"), effective as of 11:59 p.m. on the date immediately preceding the Recapture Date. In the event the Lessor timely exercises the Recapture Right, at the Lessor's election, the parties will promptly enter into an amendment of this Lease to evidence such termination, and the Term with respect to the Recapture Premises shall terminate as of the date specified in the Transfer Notice for such termination. If the Lessor fails to timely exercise its Recapture Right, then the Lessor shall be deemed to have waived its right to terminate this Lease with respect to the Recapture Premises. If the Lessor exercises any of its options under this Clause, the Lessor may then lease (or sublease) the Leased Premises or any portion thereof to the Government's proposed assignee or subtenant, as the case may be, without any liability whatsoever to the Government.

- d) Clause 7 (Substitution of Tenant Agency) of the General Clauses is deleted in its entirety and the following substituted therefor:

(b) (6)

Initials:

Lessor

Government

The Government may, at any time and from time to time, substitute any Federal Agency(ies) for the Federal Agency(ies), if any, named in the Lease; provided, however, that: (i) the Government shall notify the Lessor in writing of any proposed substitution at least thirty (30) calendar days prior to the effective date of such substitution, and such notice shall contain the name and operational unit (if available) of the Federal Agency(ies) that the Government proposes to substitute, together with the details regarding the intended use of the space by such Federal Agency(ies); (ii) the Lessor's prior written consent shall be required if the anticipated use by the Federal Agency(ies) of any part of the Leased Premises will involve walk-in service or will otherwise substantially increase the number or frequency of visitors to the Leased Premises in excess of the number or frequency normally associated with the use of the Leased Premises for general office and related space in a first class office building in Washington, D.C.; and (iii) no more than five (5) Federal Agencies may occupy the Leased Premises. If the Lessor's consent is required for any substitution under this Clause and the Lessor fails to either consent or reject to the Government's proposed substitution within fourteen (14) calendar days after the Lessor's receipt of the notice of substitution, then the Lessor shall be deemed to have consented to the proposed substitution, as applicable. The substitution notice shall contain a sentence, in size 14-point font, stating "THE LESSOR'S FAILURE TO RESPOND TO THIS NOTICE WITHIN FOURTEEN (14) CALENDAR DAYS AFTER THE LESSOR'S RECEIPT HEREOF SHALL CONSTITUTE THE LESSOR'S CONSENT TO THE PROPOSED SUBSTITUTION OF FEDERAL AGENCY."

27. **AUTHORITY:** The Government represents and warrants that this Lease has been duly authorized, executed, and delivered by, and on behalf of, the Government and constitutes the Government's valid and binding agreement in accordance with its terms. The Lessor represents and warrants that this Lease has been duly authorized, executed, and delivered by, and on behalf of, the Lessor and constitutes the Lessor's valid and binding agreement in accordance with its terms.

Initials:

(b) (6)
Lessor Government